

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FRANK JAMES CAPOZZI, SR.,	:	Civ. No. 3:17-CV-02413
	:	
Plaintiff,	:	
	:	
v.	:	
	:	
	:	
CATERING BY MARLINS, Inc., et	:	
al.,	:	
	:	
Defendants.	:	Judge Sylvia H. Rambo

ORDER

Before the court is a report and recommendation of the magistrate judge (Doc. 46) recommending that the court grant the motion for summary judgment filed by Defendant Catering By Marlins, Inc. (“CBM”). (Doc. 42.) Plaintiff Frank James Capozzi, Sr. has not filed any objections and the time to do so has expired.

In considering whether to adopt a report and recommendation when no objections have been filed, the court should, as a matter of good practice, “satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72(b), advisory committee notes; *see also Univac Dental Co. v. Dentsply Intern., Inc.*, 702 F. Supp. 2d 465, 469 (M.D. Pa. 2010) (explaining that judges should review dispositive legal issues raised by the report for clear error). Following an independent review of the record, the court is satisfied that

the report and recommendation contains no clear error and will therefore adopt the recommendation. Accordingly, **IT IS HEREBY ORDERED** that:

- (1) the report and recommendation (Doc. 46) is **ADOPTED** in full;
- (2) CBM's motion for summary judgment (Doc. 42) is **GRANTED** and CBM is dismissed from this action with prejudice;
- (3) Defendant Benjamin O'Leary is dismissed from this action without prejudice¹;
- (4) this matter is remanded to the magistrate judge for further proceedings.

/s/ Sylvia H. Rambo
SYLVIA H. RAMBO
United States District Judge

Dated: September 18, 2020

¹ The Report and Recommendation recommends dismissing Defendant Benjamin O'Leary from this action pursuant to Federal Rule of Procedure 4(m) because, despite order by the magistrate judge (Doc. 31), he was never served. (Doc. 46, n. 3.) The court finds this recommendation to be proper.